

By: Carona
(Carter)

S.B. No. 893

A BILL TO BE ENTITLED

AN ACT

relating to certain conditions of, penalties for violating, and collection of information about protective orders issued in certain family violence, sexual assault or abuse, stalking, or trafficking cases.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Chapter 7A, Code of Criminal Procedure, is amended to read as follows:

CHAPTER 7A. PROTECTIVE ORDER FOR ~~[CERTAIN]~~ VICTIMS OF ~~[TRAFFICKING OR]~~ SEXUAL ASSAULT OR ABUSE, STALKING, OR TRAFFICKING

SECTION 2. Subsection (a), Article 7A.05, Code of Criminal Procedure, is amended to read as follows:

(a) In a protective order issued under this chapter, the court may:

(1) order the alleged offender to take action as specified by the court that the court determines is necessary or appropriate to prevent or reduce the likelihood of future harm to the applicant or a member of the applicant's family or household; or

(2) prohibit the alleged offender from:

(A) communicating:

(i) directly or indirectly with the applicant or any member of the applicant's family or household in a threatening or harassing manner; or

(ii) in any manner with the applicant or any

1 member of the applicant's family or household except through the
2 applicant's attorney or a person appointed by the court, if the
3 court finds good cause for the prohibition;

4 (B) going to or near the residence, place of
5 employment or business, or child-care facility or school of the
6 applicant or any member of the applicant's family or household;

7 (C) engaging in conduct directed specifically
8 toward the applicant or any member of the applicant's family or
9 household, including following the person, that is reasonably
10 likely to harass, annoy, alarm, abuse, torment, or embarrass the
11 person; and

12 (D) possessing a firearm, unless the alleged
13 offender is a peace officer, as defined by Section 1.07, Penal Code,
14 actively engaged in employment as a sworn, full-time paid employee
15 of a state agency or political subdivision.

16 SECTION 3. Subsections (b) and (g), Section 411.042,
17 Government Code, are amended to read as follows:

18 (b) The bureau of identification and records shall:

19 (1) procure and file for record photographs, pictures,
20 descriptions, fingerprints, measurements, and other pertinent
21 information of all persons arrested for or charged with a criminal
22 offense or convicted of a criminal offense, regardless of whether
23 the conviction is probated;

24 (2) collect information concerning the number and
25 nature of offenses reported or known to have been committed in the
26 state and the legal steps taken in connection with the offenses, and
27 other information useful in the study of crime and the

administration of justice, including information that enables the bureau to create a statistical breakdown of:

(A) offenses in which family violence was involved;

(B) offenses under Sections 22.011 and 22.021, Penal Code; and

(C) offenses under Sections 20A.02 and 43.05, Penal Code;

(3) make ballistic tests of bullets and firearms and chemical analyses of bloodstains, cloth, materials, and other substances for law enforcement officers of the state;

(4) cooperate with identification and crime records bureaus in other states and the United States Department of Justice;

(5) maintain a list of all previous background checks for applicants for any position regulated under Chapter 1702, Occupations Code, who have undergone a criminal history background check under Section 411.119, if the check indicates a Class B misdemeanor or equivalent offense or a greater offense;

(6) collect information concerning the number and nature of protective orders and all other pertinent information about all persons on active protective orders, including pertinent information about persons subject to conditions of bond imposed for the protection of the victim in any family violence, sexual assault or abuse, or stalking case. Information in the law enforcement information system relating to an active protective order shall include:

1 (A) the name, sex, race, date of birth, personal
2 descriptors, address, and county of residence of the person to whom
3 the order is directed;

4 (B) any known identifying number of the person to
5 whom the order is directed, including the person's social security
6 number or driver's license number;

7 (C) the name and county of residence of the
8 person protected by the order;

9 (D) the residence address and place of employment
10 or business of the person protected by the order, unless that
11 information is excluded from the order under Section 85.007, Family
12 Code;

13 (E) the child-care facility or school where a
14 child protected by the order normally resides or which the child
15 normally attends, unless that information is excluded from the
16 order under Section 85.007, Family Code;

17 (F) the relationship or former relationship
18 between the person who is protected by the order and the person to
19 whom the order is directed; ~~and~~

20 (G) the conditions of bond imposed on the person
21 to whom the order is directed, if any, for the protection of a
22 victim in any family violence, sexual assault or abuse, or stalking
23 case; and

24 (H) the date the order expires;

25 (7) grant access to criminal history record
26 information in the manner authorized under Subchapter F;

27 (8) collect and disseminate information regarding

1 offenders with mental impairments in compliance with Chapter 614,
2 Health and Safety Code; and

3 (9) record data and maintain a state database for a
4 computerized criminal history record system and computerized
5 juvenile justice information system that serves:

6 (A) as the record creation point for criminal
7 history record information and juvenile justice information
8 maintained by the state; and

9 (B) as the control terminal for the entry of
10 records, in accordance with federal law and regulations, federal
11 executive orders, and federal policy, into the federal database
12 maintained by the Federal Bureau of Investigation.

13 (g) The department may adopt reasonable rules under this
14 section relating to:

15 (1) law enforcement information systems maintained by
16 the department;

17 (2) the collection, maintenance, and correction of
18 records;

19 (3) reports of criminal history information submitted
20 to the department;

21 (4) active protective orders [~~issued under Title 4,~~
22 ~~Family Code,~~] and reporting procedures that ensure that information
23 relating to the issuance and dismissal of an active protective
24 order [~~and to the dismissal of an active protective order~~] is
25 reported to the local law enforcement agency at the time of the
26 order's issuance or dismissal and entered by the local law
27 enforcement agency in the state's law enforcement information

1 system;

2 (5) the collection of information described by
3 Subsection (h); ~~and~~

4 (6) a system for providing criminal history record
5 information through the criminal history clearinghouse under
6 Section 411.0845; and

7 (7) active conditions of bond imposed on a defendant
8 for the protection of a victim in any family violence, sexual
9 assault or abuse, or stalking case, and reporting procedures that
10 ensure that information relating to the issuance, modification, or
11 removal of the conditions of bond is reported to the local law
12 enforcement agency at the time of the issuance, modification, or
13 removal and entered by the local law enforcement agency in the
14 state's law enforcement information system.

15 SECTION 4. The heading to Section 25.07, Penal Code, is
16 amended to read as follows:

17 Sec. 25.07. VIOLATION OF CERTAIN COURT ORDERS OR CONDITIONS
18 OF BOND IN A FAMILY VIOLENCE, SEXUAL ASSAULT OR ABUSE, OR STALKING
19 CASE.

20 SECTION 5. Subsection (a), Section 25.07, Penal Code, is
21 amended to read as follows:

22 (a) A person commits an offense if, in violation of a
23 condition of bond set in a family violence, sexual assault or abuse,
24 or stalking case and related to the safety of a ~~the~~ victim or the
25 safety of the community, an order issued under Article 17.292, Code
26 of Criminal Procedure, an order issued under Section 6.504, Family
27 Code, Chapter 83, Family Code, if the temporary ex parte order has

1 been served on the person, or Chapter 85, Family Code, or an order
2 issued by another jurisdiction as provided by Chapter 88, Family
3 Code, the person knowingly or intentionally:

4 (1) commits family violence or an act in furtherance
5 of an offense under Section 22.011, 22.021, or 42.072;

6 (2) communicates:

7 (A) directly with a protected individual or a
8 member of the family or household in a threatening or harassing
9 manner;

10 (B) a threat through any person to a protected
11 individual or a member of the family or household; or

12 (C) in any manner with the protected individual
13 or a member of the family or household except through the person's
14 attorney or a person appointed by the court, if the violation is of
15 an order described by this subsection and the order prohibits any
16 communication with a protected individual or a member of the family
17 or household;

18 (3) goes to or near any of the following places as
19 specifically described in the order or condition of bond:

20 (A) the residence or place of employment or
21 business of a protected individual or a member of the family or
22 household; or

23 (B) any child care facility, residence, or school
24 where a child protected by the order or condition of bond normally
25 resides or attends;

26 (4) possesses a firearm; or

27 (5) harms, threatens, or interferes with the care,

1 custody, or control of a pet, companion animal, or assistance
2 animal that is possessed by a person protected by the order.

3 SECTION 6. Subsection (b), Section 25.07, Penal Code, is
4 amended by adding Subdivisions (4), (5), and (6) to read as follows:

5 (4) "Sexual abuse" means any act as described by
6 Section 21.02 or 21.11.

7 (5) "Sexual assault" means any act as described by
8 Section 22.011 or 22.021.

9 (6) "Stalking" means any conduct that constitutes an
10 offense under Section 42.072.

11 SECTION 7. The heading to Section 38.112, Penal Code, is
12 amended to read as follows:

13 Sec. 38.112. VIOLATION OF PROTECTIVE ORDER ISSUED ON BASIS
14 OF SEXUAL ASSAULT OR ABUSE, STALKING, OR TRAFFICKING.

15 SECTION 8. Subsection (a), Section 38.112, Penal Code, is
16 amended to read as follows:

17 (a) A person commits an offense if, in violation of an order
18 issued under Chapter 7A, Code of Criminal Procedure, the person
19 knowingly:

20 (1) communicates:

21 (A) directly or indirectly with the applicant or
22 any member of the applicant's family or household in a threatening
23 or harassing manner; or

24 (B) in any manner with the applicant or any
25 member of the applicant's family or household except through the
26 applicant's attorney or a person appointed by the court;

27 (2) goes to or near the residence, place of employment

1 or business, or child-care facility or school of the applicant or
2 any member of the applicant's family or household; or

3 (3) possesses a firearm.

4 SECTION 9. The changes in law made by this Act in amending
5 Sections 25.07 and 38.112, Penal Code, apply only to an offense
6 committed on or after the effective date of this Act. An offense
7 committed before the effective date of this Act is governed by the
8 law in effect on the date the offense was committed, and the former
9 law is continued in effect for that purpose. For purposes of this
10 subsection, an offense was committed before the effective date of
11 this Act if any element of the offense occurred before that date.

12 SECTION 10. This Act takes effect September 1, 2013.